

## REMARKS

Applicants respectfully request entry of the amendment and reconsideration of the claims.

Claims 7, 8, 22, and 23 have been amended and new claims 81-86 have been added. Support for the amendment is found in the specification at pg. 6, lines 7-10; pg. 49, lines 25-26; and pg. 50, lines 11-12; and in previously pending claims 7 and 22. No new matter has been added by the present amendment.

In response to the species election requirement, Applicants elect, with traverse, the species of (i) perivascular cells, (ii) primary culture endothelial cells, and (iii) heart. Applicants identify claims 1-4, 7, 9-18, 20-22, 24-28, and 79-86 as encompassing subject matter related to the elected species. This election is made expressly without waiver of Applicants' right to continue prosecution and to obtain claims to the non-elected subject matter in one or more divisional applications.

Applicants traverse the requirement for election of a specific cell type from the group of cells listed in claims 1 and 18. Regarding the requirement for species election, M.P.E.P. § 808.01(a) states "[a] requirement for restriction is permissible if...there would be a serious burden on the examiner if restriction is not required" and "where there is a *relationship disclosed between species*, such disclosed relation must be discussed and advanced leading to the conclusion that the disclosed relation does not prevent restriction." (Emphasis added).

For species (i), Applicants submit that each of the cell types listed in claims 1 and 18 (i.e., preadipocytes, adipocytes not having a genetic modification, perivascular cells, vascular smooth muscle cells, mesenchymal precursor cells, mesenchymal cells, and fibroblasts) share the *common functional relationship* of having the potential to promote formation of a microvascular scaffold. This relationship is disclosed in the specification, for example, at page 6, lines 15-21. As the cell types listed in claims 1 and 18 share a common functional relationship, a search of these cell types would not place undue

burden on the Office. Accordingly, Applicants respectfully request that this requirement for species election be withdrawn.

Applicants also traverse the requirement for election of a specific cell type from the group of cells listed in claims 7 and 22. Applicants submit that each of the cell types listed in claims 7 and 22 (i.e., blood vascular endothelial cells, lymph vascular endothelial cells, endothelial cell lines, primary culture endothelial cells, endothelial cells derived from stem cells, bone marrow derived stem cells, cord blood derived cells, HUVEC, lymphatic endothelial cells, and endothelial progenitor cells) are *endothelial* or *endothelial precursor cells*. Applicants have amended claims 7 and 22 to reflect this relationship.

As the cell types listed in claims 7 and 22 are all endothelial or endothelial precursor cells with common characteristics, no undue burden for searching the species is imposed on the Office. Applicants respectfully request that this requirement for species election be withdrawn.

Lastly, Applicants traverse the requirement for election of a specific tissue or organ. All of the organs listed in claim 15 and 25 (i.e., bladder, bone, brain, breast, cartilage, nervous tissue, esophagus, fallopian tube, heart, pancreas, intestines, gallbladder, kidney, liver, lung, ovaries, prostate, skeletal muscle, skin, spinal cord, spleen, stomach, testes, thymus, trachea, urogenital tract, ureter, urethra, and uterus) require vascularization for growth and survival. As the organs listed in claim 15 and 25 share this common characteristic, Applicants submit that a search of the tissues and organs listed in claim 15 and 25 would not place an undue burden on the Office. Accordingly, Applicants respectfully request that this requirement for species election also be withdrawn.

CONCLUSION

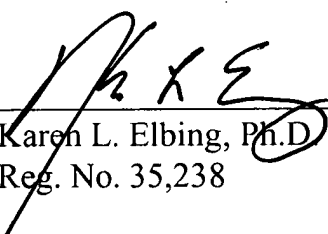
Enclosed are a Petition to extend the period for replying to the Restriction Requirement for two months, to and including June 10, 2008, and a check in payment of the required extension fee.

Also enclosed is a check in payment of the fee of \$150.00 required under 37 C.F.R. § 1.16(i) for the addition of six dependent claims.

If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: 10 June 2008

  
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